

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|-------------------------|---|-----------------------|
| In re: |) | |
| |) | |
| BROADBAND OFFICE, INC., |) | C.A. No. 01-01720 |
| |) | |
| Debtor. |) | |
| _____ |) | |
| |) | |
| BROADBAND OFFICE, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 04-399 (GMS) |
| |) | |
| DITTO COMMUNICATIONS |) | |
| TECHNOLOGIES INC. d/b/a |) | |
| DITTCOMM TECHNOLOGIES, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

MOTION TO WITHDRAW AS COUNSEL

Cross & Simon, LLC ("C&S"), pursuant to Local Rule 83.7 of the District Court for the District of Delaware, hereby moves this Court for an order authorizing C&S to withdraw as counsel of record for the Defendant in the above-referenced matter, and in support thereof, respectfully states as follows:

1. On December 23, 2003, Broadband Office, Inc. ("Plaintiff") filed a complaint against Ditto Communications Technologies Inc. ("Defendant") seeking to avoid and recover \$40,840.32 in transfers made to the Defendant prior to the Plaintiff's May 9, 2001 petition for relief filed under chapter 11 of title 11 of the United States Code.

2. On behalf of Defendant, C&S filed an answer to the complaint. The parties have participated in fact discovery.

3. On or about July 27, 2005, this Court entered a scheduling order in this case, setting certain deadlines and trial in this matter.

2. Pursuant to Delaware Professional Conduct Rule 1.16 (b)(5), withdrawing is appropriate when the “client fails substantially to fulfill an obligation to the lawyer regarding the lawyer’s services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled.” In addition withdrawing is appropriate if “the representation will result in an unreasonable financial burden on the lawyer...” and where “good cause” exists. Rule 1.16 (b)(6) and (7).


3. Defendant currently owes C&S amounts for fees and expenses incurred by Defendant during C&S’s tenure as counsel to Defendant. Defendant has represented that it is unable to pay past and future legal fees and expenses of C&S.

4. C&S has served a copy of this motion to Plaintiff, and to Defendant by certified mail addressed to the Defendant’s last known address.

WHEREFORE, C&S respectfully requests the Court enter an order authorizing C&S to withdraw as counsel of record in the above-referenced matter.

Dated: August 23, 2005
Wilmington, Delaware

CROSS & SIMON, LLC

By: 
Christopher P. Simon (No. 3697)
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P.O. Box 1380
Wilmington, Delaware 19899-1380
(302) 777-4200
(302) 777-4224 (Facsimile)

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| DITTCOMM TECHNOLOGIES, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

ORDER

AND NOW, this ____ day of _____, 2005, having considered the motion of Cross & Simon, LLC to withdraw as counsel of record for Defendant and the responses thereto, if any; IT IS HEREBY ORDERED that the Motion is GRANTED and the law firm of Cross & Simon, LLC is permitted to withdraw as counsel for Defendant.

Gregory M. Sleet
District Court Judge